

REMARKS/ARGUMENT

Claims 1, 2, 15 and 16 are pending. Claims 1 and 15 are independent.

Claims 1 and 15 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. In particular, the position was taken that there is not support for the recitation that the first layer is lowest, the second layer is higher than the first layer and lower than the third layer in layering. It is believed clear from the background description, as well as the description of the embodiments, including the figures, that the layers shown in the figures, and those discussed in connection to the prior art, are the first (physical), second (data link), and third (network) layers, as defined in the OSI model. It is further believed that one of skill in the art would have recognized them as such. To expedite prosecution, the claims have been broadened somewhat to simply indicate that the second layer is between the first and third layers. Withdrawal of the objection is respectfully requested.

Claims 1, 2, 15 and 16 were rejected under 35 U.S.C. § 103 as obvious from U.S. Patent 6,256,326 (Kudo) in view of U.S. Patent 6,256,292 (Ellis et al.). Applicant traverses and submits that independent claims 1 and 15 are patentable for at least the following reasons.

Claim 1 is directed to a node comprising first, second, and third layers, in which a packet is mapped in the first layer, the first layer judges whether the packet is to be dropped at the node or to be hopped to a next node. The second layer is between the first layer and the third layer in the layering. The first layer transmits the packet to the third layer through the second layer when the first layer judges that the packet is to be dropped at the node. As a result of the recited structure, packets can be directed in a network without having to be processed by the third layer, for example the layer with the router.

Applicant has previously pointed out the deficiencies of the rejection based upon Kudo and Ellis. Those arguments have yet to be overcome in any Office Action. In summary, the Office Action again attempts to correlate certain elements of Kudo to the recited elements. However, in doing the so, the Action applies the elements of Kudo in an inconsistent manner, for example, using descriptions relating to structure shown in Figure 9 to support statements relating to structure shown in Figure 6. These inconsistencies have been pointed out in detail in the Request for Reconsideration dated October 24, 2003, the arguments from which are incorporated herein by reference.

Applicant notes that the allegation that the layers of the claims are somehow not sufficiently defined, even if true (which it is not), does not remove the requirement that the elements of the prior art be applied by the Examiner *in a self-consistent manner*. For at least the reasons set forth in the previous responses, this requirement has not been met and no prima facie case of obviousness has been set forth. The teachings of Ellis do not remedy the deficiencies of Kudo discussed above and in the previous response.

In view of the above, and in view of the previous arguments presented in the Request for Reconsideration dated October 24, 2003, arguments that are maintained and incorporated herein by reference, it is believed clear that claim 1 is patentable over the cited references.

Claim 15 is a method claim corresponding to claim 1 and is believed patentable for at least the same reasons as claim 1.

The other claims in this application are each dependent from one or another of the independent claims discussed above and are therefore believed patentable for the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

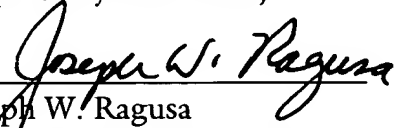
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In view of the foregoing amendments and remarks, Applicant respectfully requests favorable reconsideration and early passage to issue of the present application.

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Respectfully submitted,

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